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STATE FUNDS: HOSPITAL CONSTRUCTION

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The proposed amendment has been carefully prepared and does not permit any juror to serve more than two consecutive years. It also provides that no juror can serve more than one year as foreman.

This measure was overwhelmingly approved by the State Legislature.

Vote yes.

JOHN D. BABBAGE
Member of Assembly,
76th Assembly District,
Riverside County

Argument Against Assembly Constitutional Amendment No. 2

This amendment seeks to change the Constitution by providing that each successive Grand Jury shall have not less than three nor more than nine members from the previous year's jury. Anticipating that this amendment would be voted upon by the people, the legislature passed a bill designed to amend the law relating to the selection of Grand Jurors. Governor Warren's veto message of this bill severely criticized this attempt to alter the historical characteristics of grand juries and criticized the bill as tending toward the creation of professional grand jurors.

Americans, above everything else, demand impartiality from their Grand Juries. This necessity for impartiality was well stated by Chief Justice Shaw of the Supreme Court of Massachusetts as follows: "In a free and popular government it is of the utmost importance to the peace and harmony of society not only that the administration of justice and the punishment of crime should, in fact, be impartial, but that it should be so conducted as to inspire a general confidence. To accomplish this, nothing could be better conceived than a selection of a body, considerably numerous, by lot, from among those who previously, and without regard to time, person or occasion, have been selected from amongst their fellow citizens as persons deemed

worthy of this high trust by their moral worth, and general respectability of character. The Grand Jury by its mode of selection, by its number and character and the temporary exercise of its power is placed beyond the reach of suspicion of fear or favor of being overawed by power or seduced by persuasion."

Federal Grand Juries have no provision relating to carryover jurors. To the writers' knowledge, no other state has sought to rig the membership of its juries by any such provision.

Often senior citizens serve upon these bodies and it is doubtful if they would be willing to serve if they knew they might have to serve for two continuous years.

It is argued that carryover jurors insure efficiency and knowledge of the works of the previous jury. However, continuity of membership does not insure continuity of inquiry. If Grand Jurors wish knowledge of actions taken by past Grand Juries, reports and records of those Juries are available in the files.

This amendment permits nine members of the old Jury to sit with the new Jury. Inasmuch as there are only nineteen members on a Grand Jury, there is a definite possibility that the nine holdovers would dominate the entire Jury and dangerous cliques or an impasse might result.

Human characteristics often make it difficult for a person to serve for one year as a Grand Juror without developing one or more prejudices in connection with his work. Under the proposed system, these prejudices would be perpetuated in the succeeding Jury. Further, this scheme to perpetuate jury service is a desirable device for those few jurors who, while on Grand Jury service, may seek to further their political schemes and ambitions. Vote NO on this proposal.

L. NATHANIEL FITTS
Foreman, 1951 L.A. County Grand Jury

HAYDEN JONES
Foreman Pro Tem, 1951 L.A. County Grand Jury

20 **STATE FUNDS: HOSPITAL CONSTRUCTION. Assembly Constitutional Amendment No. 58.** Amends Section 22 of Article IV of Constitution. Permits Legislature to make state funds available to public agencies and nonprofit corporations for construction of hospital facilities and to authorize use of state funds for that purpose by nonprofit corporations, whenever federal money is made available for such construction.

YES

NO

(For Full Text of Measure, See Page 26, Part II)

Analysis by the Legislative Counsel

The Legislature would be specifically authorized by this measure to make state money available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities whenever federal funds are made available for such construction.

Congress is now making federal funds available for a portion of the cost of the construction of public and other nonprofit hospitals, but there is serious doubt whether this section of the Constitution now permits the use of state money for the construction of hospital facilities by nonprofit corporations. The amendment made by this measure will give the Legislature that power whenever the Federal Government makes funds available for such purposes.

This section of the Constitution (Art. IV, Sec. 22) would also be amended by Proposition No. 4 submitted to the voters at this election. The amendments are not conflicting, however, and if both are approved by the voters, both can be given effect.

Argument in Favor of Assembly Constitutional Amendment No. 58

Adoption of this amendment would permit nonprofit community hospitals to participate in the State grants for necessary hospital construction expansion on the same basis as tax-supported hospitals. These funds would be available only for construction and not for operating expenses or budgetary deficits. The adoption of this amendment will not in any way increase the taxes upon real and personal property.

It has been the intention of the Hospital Survey and Construction Program that in order to solve the problems arising from the acute shortage of hospital beds in California, funds for building new hospitals or expanding existing institutions be furnished on a joint basis, in part through federal grants, in part through state funds and the remainder, in the case of voluntary hospitals, by the group sponsoring the hospital. Due to constitutional restrictions state funds cannot be made available for the nonprofit voluntary hospitals and of necessity must go entirely to tax-supported institutions.

The supporters of this amendment believe that it is to the advantage of the public to have a portion of facilities included in hospital expansion in the form of voluntary hospitals, particularly in view of the fact that operating costs would not be tax-supported. Furthermore, the record shows that the need for financial assistance in the voluntary hospital field is now exceeding that for tax-supported institutions. In the past, all state construction funds have been allocated to tax-supported institutions and the number of tax-supported hospital beds has, as a result, increased out of proportion to voluntary hospital beds.

It is not the purpose of this amendment to increase the amount of tax money used for hospital construction, but only to eliminate the technical constitutional prohibition which tends to prevent local communities from making a determination on the merits without being influenced by the availability or non-availability of state funds as to whether or not they would prefer to fill their hospital needs through additional tax-supported institutions or through voluntary hospitals. The allocations of both state and federal funds will continue to be made on the basis of need and the proposed amendment will bring about a more equitable distribution of hospital facilities of every character.

The amendment will place California in a similar position enjoyed by a substantial number of other states and permit its nonprofit voluntary hospitals to share public funds available for construction purposes with tax supported hospitals.

AUGUSTUS F. HAWKINS
Assemblyman, 62nd Assembly District
HUGH M. BURNS
Senator from Fresno County
JOSEPH SCOTT
Attorney

Argument Against Assembly Constitutional Amendment No. 58

Under the HOSPITAL SURVEY AND CONSTRUCTION PROGRAM, California receives a federal grant to assist in the construction of new hospitals and the expansion of existing institutions to relieve the critical shortage of hospital facilities. The federal assistance is available to both governmental or public hospitals and nonprofit voluntary institutions. The

state, in recognition of the need for expanded facilities, has established its own hospital construction fund to supplement the federal grant. Participation in the state fund is limited to the public hospitals under the State Constitution which restricts the expenditure of state funds to governmental agencies and institutions. Only county and district hospitals may receive this state aid.

The purpose of Assembly Constitutional Amendment No. 58 is to permit nonprofit voluntary hospitals to participate in the state hospital construction fund. This would allow the state to grant financial assistance to hospitals which are not owned, controlled or operated by it or through any of its subdivisions. It would amount to subsidizing of private interests in the construction of hospital facilities. This is contrary to the philosophy of government, which restricts the use of state funds for the creation and support of tax supported agencies and institutions.

Although no additional funds are required or necessarily contemplated, the amount available for the tax supported institutions would obviously be reduced by enlarging the group eligible for participation. County and district hospitals are entirely dependent upon tax money for their construction and do not secure financial assistance through public subscription. Such amounts as may be authorized for the state construction fund should continue to be reserved entirely for their use and benefit. It is sufficient that the voluntary community hospitals are permitted to participate in such federal aid as is made available. Their additional financial requirements may be supplemented as in the past by private gifts and endowments.

More county and district hospitals are required to meet the demands of the state's increasing population. Their location, size and facilities are subject to a planned program related to need based upon population, area to be served and accessibility. Their operation has been proven satisfactory and represents an immediate solution to the state's health and hospital requirements. The adoption of this amendment would result in a reduction of the state funds now available to the public hospitals and consequently retard their growth and expansion.

ARTHUR H. BREED, JR.
Senator, Sixteenth District
BEN HULSE
Senator, Thirty-ninth District

SUPERIOR JUDGES, VACANCIES. Senate Constitutional Amendment No. 16. Amends Section 8 of Article VI of Constitution.

21

Provides that where superior court vacancy occurs during general election year preceding end of the incumbent judge's term, election of a full-term successor shall be held at same election as if no vacancy had occurred.

YES

NO

(For Full Text of Measure, See Page 26, Part II)

Analysis by the Legislative Counsel

Under the present constitutional provisions, judges of the superior court are elected for a term of six years. Section 8 of Article VI of the Constitution now provides that a vacancy in the office of judge of the superior court shall be filled at the state general election next succeeding the first day of January following the occurrence of the vacancy. The Governor is authorized to fill any vacancy until an election can be held.

The existing constitutional provisions have been construed by the courts to mean that, when the vacancy occurs in the last year of the incumbent judge's term, the election normally held in that year shall be postponed for a period of two years until the next state general election. This amendment would require the election which normally would be held to proceed, when the vacancy occurs during the last year of the incumbent's regular term of office.

Argument in Favor of Senate Constitutional Amendment No. 16

This amendment would correct a technical defect in the constitutional provision governing the election of superior court judges.

Section 8 of Article VI prescribes the method by which a vacancy in the office of superior court judge is filled. Superior court judges are elected for a term of six years, which term commences on the first Monday after the first day of January next following their election. When a vacancy occurs in such an office, it is now provided that the vacancy shall be filled at the next general state election which is held after the first day of January following the date the vacancy occurred by the election of a judge for a full six year term. That is, the election cannot be held in the year in which the

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YES

NO

(This proposed amendment expressly amends an existing section of the Constitution, therefore, **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

PROPOSED AMENDMENT TO THE CONSTITUTION

Sec. 22. No money shall be drawn from the Treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State; provided, that whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities; provided, further, that notwithstanding anything contained in this or any other section of the Constitution, the Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions;

provided, further, that the Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions; provided, further, that the Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; provided, further, that the State shall have at any time the right to inquire into the management of such institutions; provided, further, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro-rata appropriations as may be granted to such institutions under church, or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

21 **SUPERIOR JUDGES, VACANCIES.** **Senate Constitutional Amendment No. 16.** Amends Section 8 of Article VI of Constitution. Provides that where superior court vacancy occurs during general election year preceding end of the incumbent judge's term, election of a full-term successor shall be held at same election as if no vacancy had occurred.

YES

NO

(This proposed amendment expressly amends an existing section of the Constitution, therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKE-OUT TYPE**, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

PROPOSED AMENDMENT TO THE CONSTITUTION

Sec. 8. The term of office of judges of the superior courts shall be six years from and after the first

Monday of January after the first day of January next succeeding their election. A vacancy in such office shall be filled by the election of a judge for a full term at the next succeeding general state election after the first day of January next succeeding the accrual of such the vacancy by the election of a judge for a full term to commence on the first Monday of January after the first day of January next succeeding his election; except that if the term of an incumbent,